

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,

v.

ELIAS NICK COSTIANES, JR.,
Defendant.

No. 1:21-cr-00458-JKB

**UNITED STATES OF AMERICA’S CONSENT MOTION
TO RESOLVE THE PENDING CRIMINAL RULE 48 MOTION**

The United States hereby requests that the Court resolve our pending consent motion to dismiss the underlying indictment pursuant to Federal Rule of Criminal Procedure 48(a), *see* ECF No. 170, now that the U.S. Court of Appeals for the Fourth Circuit has granted it authority to do so, *see* ECF No. 176.

This Court initially declined to resolve the United States’s Rule 48(a) motion on the ground that the Fourth Circuit’s remand order was “limited” and did not grant it “authority” to do so. ECF No. 171 at 4–5. This Court nonetheless indicated that the motion “raises a substantial issue.” ECF No. 171 at 6; *see also* Fed. R. Crim. P. 37(a)(3). The United States promptly notified the Fourth Circuit of that indicative ruling and requested that it “expand the scope of [its] remand to permit [this Court] to rule on the Rule 48 motion.” ECF No. 176 at 3. The Fourth Circuit granted the United States’s request but also ordered this Court to “determine, as an initial matter,

whether or not [President Trump’s January 20, 2025] pardon applies to [Mr. Elias] Costianes’ conviction.” ECF No. 176 at 3.

The United States, with the consent of Mr. Costianes, hereby requests that the Court resolve the pending Rule 48(a) motion on the merits. In doing so, the Court should consider both the United States’s original motion, *see* ECF No. 170, as well as our response to the Court’s briefing order, *see* ECF No. 175, because in explaining the impact the pardon should have on Mr. Costianes’s conviction, the United States explained both why the pardon applies to his conviction and why there is no basis to find that the United States’s construction of the pardon has been taken in “bad faith” for purposes of any Rule 48(a) inquiry. To be clear, the Court need not agree that the pardon applies here to conclude nonetheless that the United States’s actions in light of the President’s order provide no basis for a finding of bad faith.

WHEREFORE, the United States, with Mr. Costianes’s consent, respectfully requests that the Court resolve on the merits the Rule 48(a) motion at ECF No. 170.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 4, 2025, I electronically filed the above motion in this case and thereby electronically served a copy of it on Mr. Elias Nick Costianes, Jr., through his counsel of record, who are ECF Filers.

/s/ David C. Bornstein
Assistant United States Attorney